

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Continuation Reissue Application of:)	
)	
Uber, III et al.)	
)	Art Unit: 3737
Serial No. 09/545,582)	
)	Examiner: R. Smith
Filed: April 7, 2000)	
)	
For: Patient Infusion System for Use)	
With MRI)	

DECLARATION OF WILLIAM SNYDER PURSUANT TO 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir or Madam:

I, William Snyder, hereby declare that:

1. I am currently the Executive Director of Finance at Medrad, Incorporated ("Medrad"). I began working at Medrad in 1997 as Accounting Manager. Since then I have held the positions of Director of Accounting, Director of Finance for the Global Field Organization, regional sales representative, as well as my current position.
2. I am familiar with the commercial sales success of the products that form the basis of the Patent Application. My responsibilities as Executive Director of Finance include

recording, reviewing, and understanding financial indicators for all of Medrad's product lines as well as understanding the competitive marketplace. As a result, I know that Medrad's Spectris and Spectris Solaris injectors have experienced a high level of commercial success and that the Spectris was the only MR injector on the US market from 1996 – 2000.

Commercial Success of Products Embodying the Claimed Invention

3. Medrad sold its first MR power injector, the Spectris, in March 1996 following approval by the U.S. Food and Drug Administration ("FDA") in September 1995. Since the Spectris was introduced into the market, it has experienced a high level of commercial success, attributable to the invention embodied by the Patent Application. The Spectris and its successor, the Spectris Solaris injector, have together enjoyed a high level of commercial success and have reached over \$ 250 million in sales worldwide.¹

4. A summary table showing the total historical sales of Medrad's Spectris and Solaris injectors is represented below:

Region	Products	Sales Revenue (US\$)
USA	Spectris & Solaris Injectors	greater than \$ 160,000,000
Rest of World	Spectris & Solaris Injectors	greater than \$ 90,000,000
Total Worldwide Sales		greater than \$ 250,000,000

5. The Spectris injector was the only MR power injector sold in the United States from the time it was introduced in 1996 to 2000, for four years. In 2000 Mallinckrodt/Tyco Healthcare introduced a competing product, the Optistar injector. I understand that Medrad has

¹ A current list price for Medrad's Spectris Solaris injection system is \$46,000 per injector. See 2007 GE Healthcare Diagnostic Imaging Accessories Catalog (catalog can be downloaded at <http://apps.gehealthcare.com/apps2/accessories/catalog.jhtml>).

accused the Optistar injector of infringing Medrad's U.S. Patent No. Re 37,602 in a case pending in the United States District Court for the Western District of Pennsylvania (*Medrad v. Tyco Healthcare, et al.*, Civil Action No. 01-1997).² The Optistar, like the Spectris, is a dual syringe injector in which both syringes are engaged with a drive mechanism, has a system controller outside the shielded room, and uses a communication control link that does not cause interference with MRI imaging procedures.

6. Medrad developed a new MR injector called the Spectris Solaris injector and introduced it in 2002. The Spectris Solaris injector also embodies the claimed invention in the Patent Application. The Spectris Solaris has experienced a high level of commercial success as well.

7. Since Medrad began selling the Spectris in March, 1996, Medrad's Spectris and Spectris Solaris injectors have been an overwhelming success. Medrad's U.S. sales of its MR power injectors have increased approximately 600% from 1996 to 2006. Since the introduction of the Spectris, sales of the Spectris and Spectris Solaris have generated a combined worldwide revenue of over \$250 million. (*See* Table at Paragraph 4). Through the first quarter of 2007, Medrad has sold over \$160 million in the U.S. and over \$90 million in the rest of the world. (*Id.*). Based on current market estimates, Medrad has, in the United States, approximately 85% market share of the installed base of MRI power injectors and in 2006, approximately 85% of MRI contrast injectors purchased were bought from Medrad.

² I understand that an appeal from this case has made its way through the United States Court of Appeal for the Federal Circuit, with Medrad prevailing. *Medrad, Inc. v. Tyco Healthcare Group LP et al.*, 466 F.3d 1047 (Fed. Cir. 2007). I also understand that Tyco Healthcare is currently seeking a writ of certiorari from the United States Supreme Court.

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Serial No.: 09/545,582
Filing Date: April 7, 2000
Declaration of William Snyder

8. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 22, 2007

A handwritten signature in dark ink, appearing to read 'William Snyder', is written over a horizontal line.

William Snyder
MEDRAD, INC. USA
100 Global View Drive
Warrendale, PA 15086
USA